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USCA Case #10-3088

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Filed: 11/05/2012

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NOV - 5 2012

United States Court of Appeals
District of Columbia Circuit

UNITED STATES COURT OF APPEALS
DISTRICT OF COLUMBIA CIRCUIT

UNITED STATES COURT OF APPEALS
FOR DISTRICT OF COLUMBIA CIRCUIT

FILED

NOV 05 2012

CLERK

UNITED STATES OF AMERICA,
Appellee

Case No. 10-3088

v.

Eddie Ray: Kahn,
Defendant in Error
Appellant

SECOND NOTICE AND DEMAND FOR VERIFICATION OF JUDGE'S ROGERS,
GRIFFITH AND KAVANAUGH'S ARTICLE III STATUS

On August 30, 2012, I mailed to this Court a document entitled "NOTICE AND DEMAND FOR VERIFICATION OF JUDGE'S ROGERS, GRIFFITH AND KAVANAUGH'S ARTICLE III STATUS". It has been over 60 days, and I have received no verification that the three aforementioned judges, who have been assigned to hear this case, are, in fact, de jure Article III judges.

According to the Judiciary Act of 1789 and numerous U.S. Supreme Court decisions, I have a Right to have this "Appeal" heard by fair, impartial and independant judges whose offices were created by Section 8 of the Judiciary Act of 1789.

I have good reason to believe that Rodgers, Griffith and Kavanaugh may not be judges whose offices were created by Section 8 of the Judiciary Act of 1789.

REASON: I submitted two Standard Form 61 Appointment Affidavits attached to the Notice and Demand. The first was the one Judge David Sentelle Chief Judge of this Court signed. The second was one that Administrative Law Judge Richard L. Sippel signed. As you can clearly see, there are three Oaths that have to be sworn to by the person receiving the U.S. Civil Service Commission. All three Oaths are required to be taken prior to entering the Executive branch of government (See 5 USC 3331 and 5 USC 2903).

Administrative Law judge Richard Sippel admits to being an Executive branch employee. According to his SF 61 form, Judge Sentelle appears to be one, as well.

I am well aware that there are Executive branch employees that are called "judges", such as Magistrate "judges", whose original title was "Park Commissioner". Their office was created pursuant to Article IV, section 3 of the Constitution of the United States of America (CUSA). However, they have no Article III "judicial power". They are only administrative (See "judge" Sippel's SF 61 form) in nature.

A judge whose office was created by Section 8 of the Judiciary Act of 1789 is authorized to hear all cases in law and equity. He has a lifetime appointment and his compensation cannot be diminished while he is in office, either through an Act of Congress or by taxation. Judge Sentelle's compensation is diminished as he is required, because he is an Executive branch employee, to file 1040 personal income tax forms and pay the tax due every year.

Consequently, it appears obvious to me, unless he can provide proof to the contrary, that he is nothing more than an Administrative "judge". Of course, that would make all of the judges working under him administrative, as well, as the Separation of Powers doctrine prohibits an Executive branch employee from superintending over Judicial branch employees, or vice versa.

If my assumption is found to be true, there is no Act of Congress that authorizes Rogers, Griffith and Kavanaugh to hear this case, as this is an at law proceeding, not a U.S. Code pleading.

Notice: as I have previously stated, I do not consent to have this Action heard by any judge whose office was not created by Section 8 of the Judiciary Act of 1789.

Pursuant to Federal Crop Ins. Corp. v. Merrill, 332 US 380, I have a Right to accurately ascertain that Rogers, Griffith and Kavanaugh are Section 8 judges. I am again demanding a copy of their Appointment Affidavits. I also want a copy of their Oath of Office to verify that it is the Oath that all district court judges are required to take. It is found in Section 8 of the Judiciary Act of 1789.

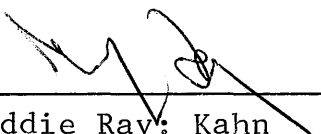
Question: Do I have a Right to have my Appeal heard by judges whose offices were ordained and established by Section 8 of the Judiciary Act of 1789?

If I do, then please have the Clerk of Court send me the requested Appointment Affidavits no later than ten (10) days after the date this Notice is file stamped by the Clerk of Court.

If I do not receive the Appointment Affidavits by that time, that will be deemed your tacit admission that Rogers, Griffith and Kavanaugh are, in fact, Executive branch employees attempting to usurp the authority of Section 8 judges.

Date: November 2, 2012

Respectfully submitted,



Eddie Ray: Kahn

P.O. Box 630

Winton, North Carolina 27986

(No phone, email or fax)

CERTIFICATE OF SERVICE

I, Eddie Ray: Kahn, certify that on November 2, 2012 I mailed a true and correct copy of the SECOND NOTICE AND DEMAND FOR VERIFICATION OF JUDGE'S ROGERS, GRIFFITH AND KAVANAUGH'S ARTICLE III STATUS via first class mail to:

Mark S. Determan, attorney
U.S. Department of Justice, Tax Division
P.O. Box 502
Washington, D.C. 20044

A handwritten signature in black ink, appearing to be "Eddie Ray: Kahn", is written over a horizontal line.

Eddie Ray: Kahn

P.O. Box 630

Winton, North Carolina 27986